STATUTORY INSTRUMENTS.

S.I. No. 110 of 2019

EUROPEAN UNION (ANTI-MONEY LAUNDERING: BENEFICIAL OWNERSHIP OF CORPORATE ENTITIES) REGULATIONS 2019

S.I. No. 110 of 2019

European Union (Anti-Money Laundering: Beneficial Ownership of Corporate Entities) Regulations 2019

I, PASCHAL DONOHOE, Minister for Finance, in exercise of the powers conferred on me by section 3 of the European Communities Act 1972 (No. 27 of 1972) and for the purpose of giving effect to Article 30 of Directive (EU) 2015/849 of the European Parliament and of the Council, of 20 May 2015[1], as amended by Article 1(15) of Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018[2], hereby make the following regulations:

Part 1

Preliminary and General

Citation and commencement

1. (1) These Regulations may be cited as the European Union (Anti-Money Laundering: Beneficial Ownership of Corporate Entities) Regulations 2019.

(2) Subject to paragraph (3), these Regulations shall come into operation on the date of their making.

(3) Part 3 shall come into operation on the date that is 3 months after the date of the making of these Regulations.

Interpretation

2. (1) In these Regulations -

"Act of 2010" means the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 (No.6 of 2010);

"beneficial owner", in relation to a relevant entity, has the meaning given to it by point (6)(a) of Article 3 of the Directive;

"beneficial ownership register" shall be construed in accordance with Regulation 15(1);

"central register" shall be construed in accordance with Regulation 19(1);

"company" means a company formed and registered under the Companies Act 2014 (No.38 of 2014) or an existing company within the meaning of that Act;

"competent authority" means a competent authority as that expression, by virtue of sections 60 and 61 of the Act of 2010, is to be construed for the purposes of Part 4 of the Act of 2010;

[1] OJ No. L141, 5.6.2015, P.73.
[2] OJ No. L156,19.6.2018, P. 43.

*Notice of the making of this Statutory Instrument was published in "Iris Oifigiúil"*26*th of March*, 2019.

"designated person" has the meaning assigned to it by section 25 of the Act of 2010;

"Directive" means Directive (EU) 2015/849 of the European Parliament and of the Council, of 20 May 2015[3], on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC as amended by Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018[4] amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU;

"Higher Executive Officer" means the position of Higher Executive Officer, or a position equivalent to it, in the public body concerned;

"Minister" means the Minister for Business, Enterprise and Innovation;

"PPS number", in relation to a natural person, means the person's Personal Public Service Number within the meaning of section 262 of the Social Welfare Consolidation Act 2005 (No.26 of 2005);

"presenter" shall be construed in accordance with Regulation 22(1);

"Principal Officer" means the position of Principal Officer, or a position equivalent to it, in the public body concerned;

"Registrar" shall be construed in accordance with Regulation 18;

"relevant entity" means a corporate or other legal entity incorporated in the State and includes a company and any other body corporate so incorporated;

"senior managing official" includes a director and a chief executive officer;

"society" means a society registered under the Industrial and Provident Societies Acts 1893 to 2014.

(2) A word or expression that is used in these Regulations and is also used in the Directive shall have in these Regulations the same meaning as it has in the Directive.

<u>References to server of notice: construction of those references.</u>

3. References in Regulation 7, 9 or 11 to the server of a notice are references to the relevant entity that gives the notice referred to in Regulation 7, 9 or 11, as the case may be.

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[3] OJ No. L 141, 5.6.2015, p. 73.
[4] OJ No. L 156, 19.6.2018, p. 43.

Part 2

Obligation for Relevant Entities to Compile a Beneficial Ownership Register

Application of these Regulations

4. (1) Subject to paragraph (2), these Regulations apply to every relevant entity.

(2) These Regulations do not apply to a company or other body corporate -

(*a*) listed on a regulated market that is subject to disclosure requirements consistent with the law of the European Union, or

(*b*) subject to equivalent international standards which ensure adequate transparency of ownership information.

(3) For the purposes of paragraph (2), "disclosure requirements consistent with the law of the European Union" includes the Transparency (Directive 2004/109/EC) Regulations 2007 (S.I. No. 277 of 2007).

Relevant entities to obtain and hold beneficial ownership information

5. (1) In this Regulation -

(*a*) a reference to the "first limb of the relevant definition" is a reference to point (i) of point (6)(a) of Article 3 of the Directive; and

(*b*) a reference to "both limbs of the relevant definition" is a reference to points (i) and (ii) of that point (6)(a).

(2) Every relevant entity shall take all reasonable steps to obtain and hold adequate, accurate and current information in respect of its beneficial owners, that is to say -

(a) the name, date of birth, nationality, and residential address of each beneficial owner of it,

(*b*) a statement of the nature and extent of the interest held, or the nature and extent of control exercised, by each such beneficial owner, and

(*c*) the PPS number of each such beneficial owner to whom such a number has been issued,

and -

(i) any PPS number so obtained shall not be disclosed by the relevant entity for any purpose of this Part, and

(ii) the foregoing information, in the case of a company or society, shall be associated by the relevant entity with its name and number as they appear on the register kept under the Companies Act 2014 or, as the case may be, the register kept under the Industrial and Provident Societies Acts 1893 to 2014.

(3) The relevant entity shall enter the information referred to in paragraph (2)(a) and (b) in its beneficial ownership register, and the following information shall also be entered by it in that register -

(*a*) the date on which each natural person was entered into the register as a beneficial owner of it; and

(*b*) the date on which each natural person who has ceased to be a beneficial owner of it ceased to be such an owner.

(4) If either -

(*a*) after having exhausted all possible means and provided there are no grounds for suspicion by the relevant entity, no natural person under the first limb of the relevant definition is identified, or

(*b*) there is any doubt that any natural person so identified is a beneficial owner of the relevant entity,

there shall be entered, in the relevant entity's beneficial ownership register as its beneficial owners (stating the nature and extent of the control exercised by them), the names of the one or more natural persons who hold the position of senior managing officials of the relevant entity (including their date of birth, nationality and residential addresses) and-

(i) the requirement of paragraph (2) with regard to not disclosing a PPS number and, in the case of a company or society, with regard to associating certain information with its name and number as there referred to, shall apply in the case of this paragraph as each such requirement applies in the case of that paragraph,

(ii) paragraph (3) shall apply in the case of this paragraph as it applies in the case of paragraph (2), and

(iii) references in subsequent provisions of these Regulations to the particulars referred to in paragraph (2)(a) and (b) of this Regulation shall be deemed to include, where the context admits, references to the particulars referred to in this paragraph.

(5) In a case falling within paragraph (4)(a) or (b), a relevant entity shall keep records of the actions taken in order to identify the beneficial ownership of it under both limbs of the relevant definition.

(6) A relevant entity shall provide any member of the Garda Síochána, the Revenue Commissioners, a competent authority, the Criminal Assets Bureau or an inspector appointed under section 764(1) of the Companies Act 2014 with timely access, on request, to its beneficial ownership register.

(7) Each of the following:

(*a*) the Garda Síochána;

(*b*) the Revenue Commissioners;

(c) a competent authority;

(*d*) the Criminal Assets Bureau,

may disclose the information in a beneficial ownership register to any corresponding competent authority of another Member State (a "corresponding authority"); in the event of there being a request made of a body or other person referred to in any of subparagraphs (a) to (d) by a corresponding authority for disclosure of such information, the request shall be complied with in a timely manner.

(8) When a relevant entity enters into an occasional transaction with a designated person, or forms a business relationship with a designated person, the relevant entity shall -

(*a*) provide, in addition to information about its legal ownership, information on its beneficial ownership to the designated entity when the designated entity is taking customer due diligence measures in accordance with Part 4 of the Act of 2010;

(*b*) on request from the designated person, provide the designated person with information identifying all the beneficial owners of the relevant entity; and

(*c*) notify the designated person of any change to its beneficial ownership register that occurs which is relevant to the occasional transaction or that occurs during the course of the business relationship formed, and the date on which it occurred within 14 days from the date on which the relevant entity becomes aware of the change.

(9) For the purposes of paragraph (8), "occasional transaction" means a transaction in relation to which the designated person is required to apply customer due diligence measures under Part 4 of the Act of 2010.

(10) A relevant entity that fails to comply with paragraph (2), (3), (4), (5), (6) or (8) commits an offence and shall be liable –

(*a*) on summary conviction, to a class A fine, or

(*b*) on conviction on indictment, to a fine not exceeding €500,000.

<u>Natural persons reasonably believed to be beneficial owners: duty to give particular notice to them -</u>

6. Without prejudice to the generality of Regulation 5(2), a relevant entity shall give to any natural person whom it has reasonable cause to believe to be a beneficial owner of it the notice referred to in Regulation 7(1), but this is subject to Regulation 7(4).

<u>Notice to natural person believed to be a beneficial owner</u>

7. (1) The notice referred to in Regulation 6 is a notice, addressed to the natural person concerned, that requires the addressee -

(*a*) to state whether or not he or she is a beneficial owner of the server of the notice, and

(*b*) if so, to confirm or correct any particulars of his or hers that are included in the notice, and supply any that are missing,

and such a notice is referred to subsequently in this Regulation as a notice under this Regulation.

(2) A notice under this Regulation shall -

(*a*) state that it is given under "Regulation 7 of the European Union (Anti Money Laundering: Beneficial Ownership of Corporate Entities) Regulations 2019", and

(*b*) as respects each of the particulars referred to in Regulation 5(2)(a),(b) and (c) -

(i) set out that which—

(I) to the knowledge of the server is, or

(II) with reasonable cause is believed by it to be, the relevant particular, or

(ii) in the absence of such knowledge or belief (on its part as respects a relevant particular) indicate, by leaving a space in the appropriate place, that that particular is not given in the notice.

(3) A notice under this Regulation shall also state that the addressee is to comply with the notice by no later than the end of the period of one month beginning with the date of the notice.

(4) A relevant entity is not required to give a notice under this Regulation if -

(*a*) the relevant entity has already been informed of the status of the natural person referred to in Regulation 6 as a beneficial owner of it, and been supplied with all the particulars referred to in Regulation 5(2)(a),(b) and (c), and

(*b*) the information and particulars were provided either by that natural person or with his or her knowledge.

(5) A relevant entity that fails to comply with Regulation 6 or any provision of this Regulation commits an offence and shall be liable, on summary conviction, to a class A fine.

<u>Other particular steps that may be taken to establish identity of beneficial owners</u>

8. (1) This Regulation -

(*a*) is without prejudice to the generality of Regulation 5(2), and

(*b*) does not derogate from the duty, where it arises, under Regulation 6.

(2) A relevant entity may give to any person (whether a natural person or not) the notice referred to in Regulation 9 if it has reasonable cause to believe

that the person has the knowledge referred to in paragraph (1)(a) or (b) of that Regulation.

Notice to person believed to have information, etc. concerning beneficial ownership

9. (1) The notice referred to in paragraph (2) of Regulation 8 is a notice, addressed to the person referred to in that paragraph, that requires the addressee -

(*a*) to state whether or not the addressee knows the identity of -

(i) any natural person who is a beneficial owner of the server of the notice, or

(ii) any person (whether a natural person or not) likely to have that knowledge, and

(*b*) if so, to supply any particulars of any such person that are within the addressee's knowledge, and state whether or not the particulars are being supplied with the knowledge of each of the persons concerned,

and such a notice is referred to subsequently in this Regulation as a notice under this Regulation.

(2) For the purposes of paragraph (1) -

(*a*) a reference to knowing the identity of a person includes a reference to knowing information from which that person can be identified, and

(*b*) a reference in subparagraph (b) of it to particulars is a reference -

(i) in the case of the natural person referred to in paragraph (1)(a)(i) - to the particulars referred to in Regulation 5(2)(a) and (b), and

(ii) in the case of the person referred to in paragraph (1)(a)(ii) — to any particulars that will allow the person to be contacted by the relevant entity.

(3) A notice under this Regulation shall state -

(*a*) that it is given under "Regulation 9 of the European Union (Anti Money Laundering: Beneficial Ownership of Corporate Entities) Regulations 2019", and

(*b*) that the addressee is to comply with the notice by no later than the end of the period of one month beginning with the date of the notice.

(4) Nothing in this Regulation shall be construed as requiring a person to whom a notice under it is given to disclose any information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

Duty to keep information in register up-to-date

10. (1) This Regulation applies where particulars of a natural person, as being a beneficial owner of the relevant entity, are entered in a relevant entity's beneficial ownership register.

(2) For the purposes of this Regulation, a relevant change occurs if -

(*a*) the natural person referred to in paragraph (1) ceases to be a beneficial owner of the relevant entity, or

(*b*) any other change occurs as a result of which the particulars (stated in the foregoing register) in relation to the natural person are incorrect or incomplete.

(3) Where this Regulation applies, the relevant entity shall, in accordance with paragraph (4), give the notice referred to in Regulation 11 to the natural person if it knows or has reasonable cause to believe that a relevant change has occurred, but this is subject to Regulation 11(4).

(4) The foregoing notice shall be given by the relevant entity as soon as reasonably practicable after it learns of the change concerned or first has reasonable cause to believe that the change concerned has occurred.

Notice to natural person to confirm occurrence of change, etc.

11. (1) The notice referred to in Regulation 10(3) is a notice, addressed to the natural person concerned, that requires the addressee -

(*a*) to confirm whether or not the change concerned has occurred, and

(*b*) if so -

(i) to state the date of the change, and

(ii) to confirm or correct the particulars included in the notice, and supply any that are missing from the notice,

and such a notice is referred to subsequently in this Regulation as a notice under this Regulation.

(2) A notice under this Regulation shall -

(*a*) state that it is given under "Regulation 11 of the European Union (Anti Money Laundering: Beneficial Ownership of Corporate Entities) Regulations 2019", and

(*b*) as respects such of the particulars referred to in Regulation 5(2)(a) and (b) as are known by the server of the notice (or with reasonable cause believed by it) to have been the subject of the change concerned -

(i) set out that which -

(I) to the knowledge of the server are, or

(II) with reasonable cause are believed by it to be,

the relevant particulars as they now stand in consequence of that change, or

(ii) in the absence of such knowledge or belief (on its part as respects a relevant particular) indicate - by leaving a space in the appropriate place - that that particular is not given in the notice.

(3) A notice under this Regulation shall also state that the addressee is to comply with the notice by no later than the end of the period of one month beginning with the date of the notice.

(4) A relevant entity is not required to give a notice under this Regulation if—

(*a*) the relevant entity has already been informed of the change concerned, and

(*b*) that information (including, as the case may be, the relevant particulars referred to in Regulation 10(2)(b)) were provided either by the natural person concerned or with his or her knowledge.

(5) A relevant entity that fails to comply with Regulation 10 or any provision of this Regulation commits an offence and shall be liable, on summary conviction, to a class A fine.

Duty of beneficial owner (in certain circumstances) to notify his or her status as such

12. (1) This Regulation applies to a natural person if -

(*a*) the natural person is a beneficial owner of a relevant entity,

(*b*) the natural person knows that to be the case or ought reasonably to do so,

(*c*) in relation to the natural person, the particulars referred to in Regulation 5(2)(a) and (b) are not stated in the relevant entity's beneficial ownership register,

(*d*) the natural person has not been given a notice by the relevant entity under Regulation 7, and

(*e*) the circumstances specified in subparagraphs (a) to (d) have continued for a period of at least one month.

(2) A natural person to whom this Regulation applies shall notify, in writing, the relevant entity referred to in paragraph (1) of the natural person's status (as a beneficial owner) of the relevant entity, and that notification shall state -

(*a*) the date, to the best of the person's knowledge, on which the person acquired that status, and

(*b*) the particulars referred to in Regulation 5(2)(a),(b) and (c).

(3) Paragraph (2) shall be complied with by the natural person not later than the end of the period of one month beginning with the day on which all the conditions specified in paragraph (1)(a) to (e) were first met with respect to the person.

(4) A natural person who -

(*a*) fails to comply with this Regulation, or

(*b*) in purported compliance with this Regulation, makes a statement that is false in a material particular, knowing it to be so false or being reckless as to whether it is so false,

commits an offence and shall be liable, on summary conviction, to a class A fine.

Duty of natural person (in certain circumstances) to notify relevant change

13. (1) This Regulation applies to a natural person if -

(*a*) in relation to the natural person (as a beneficial owner of the relevant entity), the particulars referred to in Regulation 5(2)(a) and (b) are stated in a relevant entity's beneficial ownership register,

(*b*) a relevant change occurs,

(*c*) the natural person knows of the change or ought reasonably to do so,

(*d*) the relevant entity's beneficial ownership register has not been altered to reflect the change, and

(*e*) the natural person has not been given a notice by the relevant entity under Regulation 11 by the end of the period of one month beginning with the day on which the change occurred.

(2) For the purposes of this Regulation, a relevant change occurs if -

(*a*) the natural person referred to in paragraph (1) ceases to be a beneficial owner of the relevant entity referred to in that paragraph, or

(*b*) any other change occurs as a result of which the particulars (stated in the relevant entity's beneficial ownership register) in relation to the natural person are incorrect or incomplete.

(3) A natural person to whom this Regulation applies shall notify, in writing, the relevant entity referred to in paragraph (1) of the relevant change, and that notification shall -

(*a*) state the date on which the change occurred, and

(*b*) give to the relevant entity any necessary information so that it can alter its beneficial ownership register to reflect that change.

(4) Paragraph (3) shall be complied with by the natural person not later than whichever of the following periods is the last to expire -

(*a*) the period of 2 months beginning with the day on which the relevant change occurred,

(*b*) the period of one month beginning with the day on which facts have come to the notice of the natural person from which he or she could reasonably conclude that the relevant change has occurred.

(5) A natural person who -

(*a*) fails to comply with this Regulation, or

(*b*) in purported compliance with this Regulation, makes a statement that is false in a material particular, knowing it to be so false or being reckless as to whether it is so false,

commits an offence and shall be liable, on summary conviction, to a class A fine.

Offence for failure to comply with notice under Regulation 7, 9 or 11

14. (1) A person to whom a notice under Regulation 7, 9 or 11 is given commits an offence if the person -

(*a*) fails to comply with the notice, or

(*b*) in purported compliance with the notice, makes a statement that is false in a material particular, knowing it to be so false or being reckless as to whether it is so false.

(2) In proceedings for an offence under this Regulation it shall be a defence to prove that the requirement (in the notice concerned) to give information was frivolous or vexatious.

(3) A person guilty of an offence under this Regulation shall be liable, on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both.

Duty to keep and maintain a beneficial ownership register

15. (1) A relevant entity shall keep and maintain a register (which shall be known, and is in these Regulations referred to, as a "beneficial ownership register") in which there shall be entered by it the information referred to in Regulation 5(2)(a) and (b) and (3).

(2) A relevant entity that fails to comply with paragraph (1) commits an offence and shall be liable -

(*a*) on summary conviction, to a class A fine, or

(*b*) on conviction on indictment, to a fine not exceeding €500,000.

(3) If -

(*a*) the name of any person is, without sufficient cause, entered in or omitted from a relevant entity's beneficial ownership register, or

(*b*) default is made or unnecessary delay takes place in entering in a relevant entity's beneficial ownership register the fact that a person has ceased to be a beneficial owner of it,

the person aggrieved or any other interested party may apply to the High Court for rectification of the register.

(4) Where an application is made under paragraph (3), the High Court may either refuse the application or may order rectification of the beneficial ownership register and payment by the relevant entity of compensation for any loss sustained by any party aggrieved.

(5) On such an application, the High Court may -

(*a*) decide any question as to whether the name of any person who is a party to the application should or should not be entered in or omitted from the beneficial ownership register, and

(*b*) more generally, decide any question necessary or expedient to be decided for rectification of the beneficial ownership register.

(6) The reference in this Regulation to "any other interested party" is a reference to -

(*a*) any member of the relevant entity, and

(*b*) any other person who is a beneficial owner of the relevant entity.

Part 3

Obligation of Relevant Entities to File Beneficial Ownership Information in Central Register

Discharge of initial central filing obligation – construction of that expression

16. A reference in this Part to the discharge by a relevant entity of its initial central filing obligation is a reference to the delivery by the entity of information to the Registrar in compliance with Regulation 20(1) or (2).

Delivery of information under this Part: delivery may be effected by persons external to relevant entity (as well as by officers or employees of it)

17. (1) The provision made by paragraph (2) is in addition to the general law whereby a relevant entity acting through an officer or employee of it may discharge an obligation referred to in this Regulation.

(2) An obligation imposed on a relevant entity by this Part to deliver information to the Registrar may be discharged by a person, who is not an officer or employee of it, acting on the relevant entity's behalf.

(3) Regulation 22 makes provision as respects certain information to be delivered to the Registrar where the obligation concerned is discharged on behalf of the relevant entity by a person acting as mentioned in paragraph (2).

(4) Regulation 20(6) applies to the delivery by a relevant entity of information irrespective of whether the person who delivers the information is an officer or employee of the entity or a person acting as mentioned in paragraph (2).

Registrar of Beneficial Ownership of Companies and Industrial and Provident Societies

18. The Minister may, after consultation with the Minister for Finance, appoint –

(*a*) a registrar, who shall be known as the "Registrar of Beneficial Ownership of Companies and Industrial and Provident Societies" and is in these Regulations referred to as the "Registrar", and

(*b*) such assistant registrars,

as he or she thinks necessary for any of the purposes referred to in Regulation 19, and may remove any persons so appointed.

Establishment and maintenance of central register

19. (1) There is, by virtue of this Regulation, established a register which shall be known as the "Central Register of Beneficial Ownership of Companies and Industrial and Provident Societies" and is in these Regulations referred to as the "central register".

(2) The central register shall be maintained by the Registrar; the information required by this Part to be delivered or submitted to the Registrar shall be entered in that register by the Registrar and that register shall be kept in such form as he or she considers appropriate.

(3) For the purposes of the registration in the central register of the information specified in these Regulations, the Minister shall maintain and administer an office or offices in the State at such places as the Minister thinks fit.

(4) The provision made by paragraph (2) as respects entry of information in the central register is subject to paragraphs (5) and (6) of Regulation 21 (which prohibit disclosure of a PPS number and impose a requirement in relation to the version of such a number that may be stored by the Registrar).

Obligation of relevant entity to deliver beneficial ownership information to Registrar and related obligations of designated person where certain discrepancies discovered

20. (1) A relevant entity that is in existence before the commencement of this Part shall deliver the information specified in Regulation 21 to the Registrar within 5 months from such commencement.

(2) A relevant entity that comes into existence on or after the commencement of this Part shall, within 5 months from its incorporation,

deliver the information specified in Regulation 21 to the Registrar in such manner as the Registrar determines.

(3) Where the following conditions are satisfied (and whether in the circumstances of the designated person taking the measures referred to in Regulation 5(8)(a) or otherwise) -

(*a*) any of the particulars, as referred to in Regulation 5(2)(a) and (b), contained in the beneficial ownership register of a relevant entity come to the knowledge of a designated person, and

(*b*) the designated person forms the opinion that there is a discrepancy between the particulars referred to in subparagraph (a) and the information in the central register (on referring himself or herself to the information in the central register as it relates to that relevant entity),

then the designated person shall deliver, in a timely manner, to the Registrar, in such manner as the Registrar determines, notice of that opinion, specifying the particulars as respects which the foregoing discrepancy exists.

(4) On receipt of a foregoing notice, the Registrar shall -

(*a*) if the Registrar considers it appropriate to do so, make an entry in the relevant place in the central register which states that the notice has been received and specifies the particulars as respects which the foregoing discrepancy exists, and

(*b*) serve a notice on the relevant entity concerned which –

(i) states that the foregoing notice has been received, and

(ii) specifies the particulars as respects which the foregoing discrepancy exists, and requests the relevant entity to deliver to the Registrar, within a period specified in the notice and in such manner as the Registrar determines –

(I) a submission as to why the relevant entity considers the opinion of the designated person concerned not to be well founded, or

(II) if the relevant entity considers the opinion of the designated person concerned to be well founded, such amended particulars (for entry in the central register) as are required where the relevant entity is satisfied that the delivery of such is the appropriate means by which the discrepancy can be resolved,

and such a request shall be complied with by the relevant entity accordingly.

(5) None of the following -

(*a*) an opinion stated in a notice delivered under paragraph (3) by a designated person to the Registrar (nor the specification in such a notice of the particulars as respects which the discrepancy concerned exists),

(*b*) a submission delivered under paragraph (4)(b)(ii)(I) to the Registrar by a relevant entity,

shall, of itself, be regarded as constituting defamatory matter.

(6) The means specified in paragraph (7), and no other means, shall be used by a relevant entity to deliver, under these Regulations, information to the Registrar. If such means are not used to deliver the information concerned, the fact of the receipt by the Registrar of the particular information shall not constitute compliance with the requirement concerned of these Regulations.

(7) The means referred to in paragraph (6) are those that are provided for under the Electronic Commerce Act 2000 (No. 27 of 2000).

(8) The reference in this Regulation to the use of the means provided for under the Electronic Commerce Act 2000 is a reference to their use in a manner that complies with any requirements of the Registrar of the kind referred to in sections 12(2)(b) and 13(2)(a) of that Act.

Information which shall be delivered to Registrar

21. (1) The following is the information referred to in Regulation 20(1) or (2) that shall be delivered by a relevant entity to the Registrar:

(*a*) the name, date of birth, nationality and residential address of each beneficial owner of the entity;

(*b*) a statement of the nature and extent of the interest held, or the nature and extent of control exercised by, each such beneficial owner; and

(*c*) the name and number of the entity as they appear on the register kept under the Companies Act 2014 or, as the case may be, the register kept under the Industrial and Provident Societies Acts 1893 to 2014,

and Regulation 23 makes provision for occasions, subsequent to the discharge by the relevant entity of its initial central filing obligation, on which information shall be delivered by it to the Registrar.

(2) In addition to what is provided in paragraph (1), there shall be delivered to the Registrar by the relevant entity -

(*a*) for the purpose of verification of the information delivered under Regulation 20(1) or (2) and without prejudice to subparagraph (b), the PPS number of each beneficial owner to whom such as number has been assigned, or

(*b*) such information as stands determined by the Registrar for the purposes of this Regulation.

(3) In addition to what is provided in paragraphs (1) and (2), where the obligation imposed on a relevant entity by Regulation 20(1) or (2) is discharged by its acting through an officer or employee of it, there shall be delivered to the Registrar -

(*a*) the name, address, phone number and e-mail address of the officer or employee for correspondence purposes, and

(*b*) particulars as to the capacity in which the officer or employee is acting.

(4) The Registrar shall delete from the central register information entered in it in relation to a relevant entity if 10 years have elapsed from the dissolution (should such occur) of the relevant entity and, as soon as may be after that deletion, the Registrar shall destroy that information.

(5) As respects a PPS number of a beneficial owner that has been delivered under paragraph (2) to the Registrar -

(*a*) the Registrar shall not disclose that number, and

(*b*) only a version, as provided for in paragraph (6), of that number shall be stored by the Registrar.

(6) The version mentioned in paragraph (5)(b) is a version that satisfies the following conditions:

(*a*) the version (a "hashed version") has been generated by the employment of a mathematical function; and

(*b*) the mathematical function, so employed, does not allow the PPS number to be determined from the hashed version.

(7) The Registrar shall, as respects any information that has been received under paragraph (3) and recorded by the Registrar, destroy the information as soon as may be after 10 years have elapsed from the dissolution (should such occur) of the relevant entity to which it relates.

(8) Paragraphs (2) to (7) shall, with any necessary modifications, apply to amended particulars that are to be, or have been delivered, under Regulation 20(4)(b)(ii)(II) as they apply to information that is to be, or has been, delivered under Regulation 20(1) or (2).

Information to be provided by presenter

22. (1) This Regulation applies where the information specified in Regulation 21 is delivered to the Registrar by a person (in this Regulation referred to as the "presenter") acting on behalf of the relevant entity concerned as mentioned in Regulation 17(2).

(2) Where this Regulation applies, the following information shall also be delivered by the presenter to the Registrar:

(*a*) the presenter's name, address, phone number and e-mail address;

(*b*) particulars as to the capacity in which the presenter is acting; and

(*c*) if the presenter is not a natural person, the name, address, phone number and e-mail address of a natural person for correspondence purposes.

(3) The Registrar shall, as respects any information that has been received under paragraph (2) and recorded by the Registrar, destroy the information as

soon as may be after 10 years have elapsed from the dissolution (should such occur) of the relevant entity to which it relates.

Duty to keep information in beneficial ownership register and central register aligned and up to date

23. (1) The purpose of this Regulation is to require that any changes that occur in the information contained in a relevant entity's beneficial ownership register be reflected by a corresponding change being made in the central register; accordingly there is imposed on the relevant entity by this Regulation an obligation – referred to in this Regulation as the "follow up obligation" – to deliver information to the Registrar so as to allow any such change to be reflected in the central register.

(2) The provisions of this Regulation shall have effect in relation to a relevant entity following the discharge by the entity of its initial central filing obligation (and in paragraph (3) the time on which that obligation is so discharged is referred to as the "relevant time").

(3) Where at any time, subsequent to the relevant time, the obligation referred to in paragraph (4) falls to be discharged by a relevant entity, then there is also imposed on the relevant entity, by this Regulation, the follow up obligation specified in paragraph (5).

(4) The first-mentioned obligation in paragraph (3) of the relevant entity is the obligation to -

(*a*) enter any information in its beneficial ownership register, or

(*b*) amend or delete any information in that register,

whether by virtue of its duty under Regulation 5(2) to hold accurate and current information regarding its beneficial ownership or any other provision of Part 2.

(5) The relevant entity's follow up obligation is to deliver to the Registrar, as appropriate -

(*a*) the same information as that which (as mentioned in paragraph (4)(a)) the relevant entity is required to enter in its beneficial ownership register, or

(b) the appropriate information that will enable the Registrar to make the same amendment or deletion of information in the central register as that which (as mentioned in paragraph (4)(b)) the relevant entity is required to make in its beneficial ownership register,

and the follow up obligation shall be discharged within 14 days from the date on which the first-mentioned obligation in paragraph (3) falls to be discharged by the relevant entity.

(6) Regulation 21(2) to (7) and, as the case may be, Regulation 22 shall apply in a case where information is delivered to the Registrar under paragraph (5) as they apply in a case where information is delivered to the Registrar under Regulation 20(1), (2) or (3).

Unrestricted access to beneficial ownership information in central register

24. (1) Subject to paragraph (2), the following shall have the right to inspect the central register -

(*a*) a member of the Garda Síochána, not below the rank of inspector, who is engaged in the prevention, detection or investigation of possible money laundering or terrorist financing,

(*b*) a member of FIU Ireland within the meaning of Part 4 of the Act of 2010,

(*c*) an officer of the Revenue Commissioners, holding a position not below that of Higher Executive Officer,

(*d*) an officer of the Criminal Assets Bureau, holding a rank not below the rank of inspector in the Garda Síochána, or holding a position not below that of Higher Executive Officer.

(2) The right referred to in paragraph (1) shall not be exercised –

(*a*) by a member of the Garda Síochána referred to in subparagraph (a) of that paragraph, unless he or she has been authorised to exercise the right by a member of the Garda Síochána, not below the rank of superintendent,

(*b*) by a member of FIU Ireland, unless he or she has been authorised to exercise the right by a member of the Garda Síochána, not below the rank of superintendent,

(*c*) by an officer of the Revenue Commissioners referred to in subparagraph (c) of that paragraph, unless he or she has been authorised to exercise the right by an officer of the Revenue Commissioners, holding a position not below that of Principal Officer, or

(*d*) by an officer of the Criminal Assets Bureau referred to in subparagraph (d) of that paragraph, unless he or she has been authorised to exercise the right by a member of the Garda Síochána, not below the rank of superintendent.

(3) Subject to paragraph (4), a member, a member of staff or an officer of a competent authority who is engaged in the prevention, detection or investigation of possible money laundering or terrorist financing shall have the right to inspect the central register.

(4) The right referred to in paragraph (3) shall not be exercised –

(*a*) by –

(i) a member or member of staff of the Central Bank of Ireland,

(ii) an officer of the Minister for Justice and Equality, or

(iii) a member or member of staff of the Property Services Regulatory Authority,

(each of which or whom is referred to in this subparagraph as a "relevant competent authority") unless he or she holds a position not below that of Higher Executive Officer and has been authorised to exercise the right by a member or member of staff or, as the case may be, an officer of the relevant competent authority concerned, holding a position not below that of Principal Officer, or

(*b*) by a member or member of staff of -

(i) the Law Society of Ireland,

(ii) the General Council of the Bar of Ireland, or

(iii) a designated accountancy body (within the meaning of Part 4 of the Act of 2010),

unless he or she is a person designated by the President of the Law Society of Ireland, the chairperson of the General Council of the Bar of Ireland or the chief executive of (or a person holding an equivalent position in) the designated accountancy body, as the case may be, to be a person authorised for the purposes of clause (i), (ii) or (iii), as appropriate, to exercise the right.

(5) An inspector appointed under section 764(1) of the Companies Act 2014 shall have the right to inspect the central register.

(6) On there being made of the Registrar a request for inspection, under any of paragraphs (1) to (5), of the central register, the Registrar shall afford the maker of the request access, in a timely manner, to the register.

(7) The Registrar shall, neither during the taking of the steps to afford the maker the access referred to in paragraph (6), nor afterwards, alert any relevant entity concerned to the fact of such access having been afforded.

(8) In paragraph (7), "any relevant entity concerned" means any relevant entity to which the information in the central register, the subject of the inspection concerned, relates.

(9) Each of the following:

(*a*) the Garda Síochána;

(*b*) the Revenue Commissioners;

(*c*) a competent authority;

(*d*) the Criminal Assets Bureau,

may disclose the information in the central register to any corresponding competent authority of another Member State (a "corresponding authority"); in the event of there being a request made of a body or other person referred to in any of subparagraphs (a) to (d) by a corresponding authority for disclosure of such information, the request shall be complied with in a timely manner.

(10) No fee shall be charged to a corresponding authority for the disclosure of the information in the central register.

Restricted access to beneficial ownership information in central register

25. (1) When –

(*a*) a relevant entity enters into an occasional transaction with a designated person, or forms a business relationship with a designated person, or

(*b*) a designated person is taking customer due diligence measures in accordance with Part 4 of the Act of 2010 in relation to a relevant entity,

the designated person shall, subject to paragraph (5), have a right of access to the following information in the central register that relates to the relevant entity:

(i) the name, the month and year of birth and the country of residence and nationality of each beneficial owner of it; and

(ii) a statement of the nature and extent of the interest held, or the nature and extent of control exercised, by each such beneficial owner,

and that access shall be afforded in a timely manner.

(2) The information obtained by a designated person by means of the access to the central register afforded under paragraph (1) shall not be relied upon exclusively by the designated person to fulfil the designated person's duty to apply customer due diligence measures under Part 4 of the Act of 2010 (which duty shall be fulfilled by using a risk-based approach).

(3) A member of the public may, subject to paragraph (5), inspect the following information in the central register that relates to any relevant entity:

(*a*) the name, the month and year of birth and the country of residence and nationality of each beneficial owner of it; and

(*b*) a statement of the nature and extent of the interest held, or the nature and extent of control exercised, by each such beneficial owner.

(4) The Data Protection Act 2018 (No.7 of 2018) shall apply to the access that the Registrar affords to a designated person and any member of the public in respect of the information in the central register that relates to a relevant entity.

(5) Where a designated person or a member of the public seeks to have access to, or to inspect, any information in the central register so far as such information relates to a minor who is a beneficial owner of a relevant entity, the Registrar shall request the designated person or member of the public to provide, in writing, to the Registrar a summary of the grounds on which he or she considers it is in the public interest that that information be disclosed to him or her and -

(*a*) if the designated person or the member of the public refuses or fails to comply with that request, or

(*b*) unless the Registrar, having considered such a written summary provided to the Registrar, is of the opinion that there are

substantial grounds for the contention of the foregoing person that it is in the public interest that the information be disclosed to him or her,

the designated person or member of the public shall not be permitted by the Registrar to have access to, or to inspect, any information in the central register so far as such information relates to the minor concerned.

(6) In paragraph (1), "occasional transaction" has the same meaning as it has in Regulation 5(9).

Obligations of competent authorities to report certain discrepancies to Registrar

26. (1) If -

(*a*) any of the following:

(i) the Garda Síochána;

(ii) the Revenue Commissioners;

(iii) a competent authority;

(iv) the Criminal Assets Bureau,

forms the opinion that there is a discrepancy between the information in the central register and the beneficial ownership information, as it relates to any relevant entity, available to, as the case may be, the Garda Síochána, the Revenue Commissioners or other foregoing authority or bureau (each of which is referred to in this Regulation as a "relevant person"), and

(*b*) to the extent that the doing of the following does not interfere unnecessarily with the performance of the relevant person's functions,

then the relevant person shall deliver, in a timely manner, to the Registrar, in such manner as the Registrar determines, notice of that opinion, specifying the particulars as respects which the foregoing discrepancy exists.

(2) On receipt of a foregoing notice, the Registrar shall -

(a) if the Registrar considers it appropriate to do so, make an entry in the relevant place in the central register which states that the notice has been received and specifies the particulars as respects which the foregoing discrepancy exists, and

(b) serve a notice on the relevant entity concerned which –

(i) states that the foregoing notice has been received, and

(ii) specifies the particulars as respects which the foregoing discrepancy exists, and requests the relevant entity to deliver to the Registrar, within a period specified in the notice and in such manner as the Registrar determines –

(I) a submission as to why the relevant entity considers the opinion of the relevant person concerned not to be well founded, or

(II) if the relevant entity considers the opinion of the relevant person concerned to be well founded, such amended particulars (for entry in the central register) as are required where the relevant entity is satisfied that the delivery of such is the appropriate means by which the discrepancy can be resolved,

and such a request shall be complied with by the relevant entity accordingly.

(3) None of the following -

(*a*) an opinion stated in a notice delivered under paragraph (1) by a relevant person to the Registrar (nor the specification in such a notice of the particulars as respects which the discrepancy concerned exists),

(*b*) a submission delivered under paragraph (2)(b)(ii)(I) to the Registrar by a relevant entity,

shall, of itself, be regarded as constituting defamatory matter.

(4) Paragraphs (2) to (7) of Regulation 21 shall, with any necessary modifications, apply to amended particulars that are to be, or have been delivered, under paragraph (2)(b)(ii)(II) as they apply to information that is to be, or has been, delivered under Regulation 20(1) or (2).

Fees may be charged for access to central register under Regulation 25

27. (1) The Registrar may require any of the persons referred to in Regulation 25(1) or (3) to pay to the Registrar a fee of such an amount as the Registrar may determine in respect of the access afforded to the central register under Regulation 25(1) or (3).

(2) The amount of a fee required to be paid under paragraph (1) shall not exceed the administrative cost incurred in affording access to the information concerned.

Offence for failure to comply with Regulation 20, 21, 22 or 23 and supplemental provisions

28. (1) A relevant entity that fails to comply with Regulation 20, 21 or 23 commits an offence and shall be liable –

(*a*) on summary conviction, to a class A fine, or

(*b*) on conviction on indictment, to a fine not exceeding €500,000.

(2) A relevant entity that fails, without reasonable excuse, to comply with a request, as referred to in clause (ii) of paragraph (4)(b) of Regulation 20, or clause (ii) of paragraph (2)(b) of Regulation 26, contained in a notice served on it under that paragraph (4)(b) or (2)(b), as the case may be, commits an offence and shall be liable –

(*a*) on summary conviction, to a class A fine, or

(*b*) on conviction on indictment, to a fine not exceeding €500,000.

(3) If the contravention in respect of which a relevant entity is convicted of an offence under these Regulations is continued after the conviction, the relevant entity shall be guilty of a further offence on every day on which the contravention continues and for each such offence it shall be liable, on summary conviction, to a class A fine.

(4) A presenter that fails to comply with Regulation 22 commits an offence and shall be liable, on summary conviction, to a class A fine.

(5) A person who, in purported compliance with Regulation 20, 21, 22 or 23, makes a statement that is false in a material particular, knowing it to be so false or being reckless as to whether it is so false, commits an offence and shall be liable -

(*a*) on summary conviction, to a class A fine or imprisonment for a term not exceeding 12 months or both, or

(b) on conviction on indictment, to a fine not exceeding €500,000 or imprisonment for a term not exceeding 12 months or both.

(6) A designated person who fails to comply with Regulation 20(3) commits an offence and shall be liable, on summary conviction, to a class A fine.

(7) Where an offence under these Regulations is committed by a body corporate and is proved to have been so committed with the consent or connivance of any person, being a director, manager, secretary or other officer of the body corporate, or a person who was purporting to act in such capacity, that person shall, as well as the body corporate, be guilty of an offence and shall be liable to be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

Prosecution of offences

29. (1) Summary proceedings in relation to an offence under these Regulations may be brought and prosecuted by:

(*a*) the Director of Public Prosecutions, or

(*b*) the Registrar.

(2) The Registrar, at his or her discretion, may refer a case to the Director of Public Prosecutions where the case is one in relation to which the Registrar has reasonable grounds for believing that an indictable offence under these Regulations has been committed.

(3) Summary proceedings in relation to an offence under these Regulations may be brought, heard and determine before a judge of the District Court assigned to -

(*a*) the Dublin Metropolitan District, or

(*b*) the district court district of which the district court area of Carlow forms part,

but only to the extent, in the case of the district court district referred to in subparagraph (b), that the judge so assigned is exercising jurisdiction in the district court area of Carlow so referred to.

Certificate by Registrar admissible as evidence of facts stated

30. A certificate in writing and signed by the Registrar shall be admissible in all legal proceedings as evidence without further proof of any of the following facts stated in the certificate unless the contrary is shown -

(*a*) the contents of the central register,

(*b*) the date on which information was registered with the Registrar,

(*c*) the most recent date (if any) on which a requirement under these Regulations was complied with.

Interconnection of central registers via the European Central Platform

31. The Registrar shall arrange for the connection of the central register with central registers in other Member States as provided for by Article 30(10) of the Directive.

Part 4

Revocation

Revocation

32. The European Communities (Anti-Money Laundering: Beneficial Ownership of Corporate Entities) Regulations 2016 (S.I. No. 560 of 2016) are revoked.

L.S.

GIVEN under my Official Seal,

22 March, 2019.

Paschal Donohoe,

Minister for Finance.

EXPLANATORY MEMORANDUM

(*This note is not part of the Instrument and does not purport to be a legal interpretation*.)

These Regulations give effect to Article 30 of Directive (EU) 2015/849 of the European Parliament and of the Council, of 20 May 2015, as amended by Article 1(15) of Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018.

The Regulations require corporate or other legal entities incorporated in the State to obtain and hold adequate, accurate and current information in respect of its beneficial owners, and to state the nature and extent of the control exercised by them.

The Regulations establish a central register of beneficial ownership and require corporate or other legal entities incorporated in the State to obtain to transmit its beneficial ownership information to the central register.

The Regulations establish who shall have access the information held in the central register.

The Regulations create offences for breaches of Article 30.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ó
FOILSEACHÁIN RIALTAIS,
52 FAICHE STIABHNA, BAILE ÁTHA CLIATH 2
(Teil: 01 - 6476834 nó 1890 213434)

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